
EVALUATOR MANUAL TRANSMITTAL SHEET

Distribution:

☐ All Child Care Evaluator Manual Holders
☒ All Residential Care Evaluator Manual Holders
☐ All Evaluator Manual Holders

Transmittal No.**04APX-13****Date Issued**

December 2004

Subject:

2004 Chaptered Legislation
Appendix A – Residential Care Facilities for the Elderly

Reason For Change:

This transmits summaries of legislation chaptered in 2004 affecting Residential Care Facilities for the Elderly. The summaries are divided into two sections as follows:

1. Immediate Action Required – Interim instructions are provided.
2. Information Only – No action required by CCLD.

An index is attached to assist staff in locating specific bills. Statutes referenced in this document became operative on January 1, 2005.

Filing Instructions:

REMOVE –

INSERT – the attached pages into Appendix A. Do not remove similar documents from the previous years.

Approved:***Original signed by B. Rooney******on 12/31/04***

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SUMMARY AND IMPLEMENTATION PLANS 2004 CHAPTERED LEGISLATION

RESIDENTIAL CARE FACILITIES FOR THE ELDERLY

BILL NUMBER/AUTHOR	SUBJECT	PAGE
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ACTION REQUIRED

AB 1240/Mullen	Civil Penalty Increase For Background Check Violations	1
AB 1945/Nakano	Administrator Certification Training	2
SB 1104/Committee on Budget and Fiscal Review	Licensing Fees	3-7
SB 1662/Dunn	Rate Increases	8

INFORMATION ONLY – NO ACTION REQUIRED

AB 2611/Simitian	Elder and Dependent Adult Abuse	9
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Unless otherwise noted, all new legislation becomes effective on January 1, 2005. When conducting licensing visits, LPAs should, to the extent practical, make sure that providers are aware of any new requirements. However, regardless of whether this information is provided, it is the licensee's responsibility to be aware of any new requirements affecting their program.

ACTION REQUIRED

AB 1240 (Mullin), CHAPTER 653, STATUTES OF 2004

Affects: All state and county licensed facilities

Subject: Civil Penalty Increase for Background Check Violations

Summary:

Amendments to Health and Safety Code Sections 1522, 1568.09, 1569.17, and 1596.871 increase an existing civil penalty for allowing an individual, who does not have a criminal record clearance or exemption, to work or reside in a licensed facility. The existing, immediate \$100 per individual civil penalty has been increased to an immediate \$100 per day civil penalty, for a maximum of 5 days for the first violation and a maximum of 30 days for subsequent violations.

Implementation:

These statute changes are effective immediately and licensing staff shall implement as follows:

- Prior to each licensing visit, review the facility file for any citations for allowing an individual, who does not have a criminal record clearance or exemption, to work or reside in the facility and, as is current practice, query the LIS for a list of all persons currently associated to the facility.
- At the licensing visit, if there is a person(s) (who is subject to a background check) working or residing in the facility who does not have a clearance or a criminal record exemption:
 1. Determine how long the individual has been working or residing at the facility.
 2. Cite the deficiency.
 3. Assess immediate civil penalty for the number of days that you can substantiate the individual worked or resided in the facility, up to a maximum of 5 days.
- If the licensee has been cited for this type of violation within the last 12 months, the civil penalty may continue at \$100 per day, for a maximum of **30 days**. Follow steps 1 through 3 above.

Regulations will be amended to reflect this change.

NOTE: Nothing above changes the current requirement that the individual must be removed from the facility and cannot return until he/she receives a clearance or a criminal record exemption.

ACTION REQUIRED

AB 1945 (Nakano), CHAPTER 340, STATUTES OF 2004

Affects: Residential Care Facilities for the Elderly (RCFE)

Subject: Administrator Certification Training

Summary: This legislation amends Section 1569.616 of the Health and Safety Code, relating to continuing education. This section applies to administrators certification programs.

The requirement for vendors of online continuing education programs to annually conduct a random 10% sampling of participants for quality control has been repealed. Online vendors of continuing education programs are now required to have a final screen displaying a printable statement of participant identification and to retain a copy of that statement signed under penalty of perjury for three years. Any person who certifies information that he/she knows to be false is guilty of a misdemeanor.

Implementation:

This statute is self implementing although regulations may be developed.

ACTION REQUIRED

SB 1104 (Committee on Budget and Fiscal Review), CHAPTER 229, STATUTES OF 2004

Affects: All Elderly Residential, Community Care (except for Foster Family Homes), and Child Day Care Facilities

Subject: Licensing Fees – EFFECTIVE August 16, 2004

Summary: This legislation amends among other statutes, Health and Safety Code Sections 1523.1, 1568.05, 1569.185, and 1596.803 to require the Department to increase existing fees and charge new fees for the purpose of financing licensing activities. This emergency legislation became effective when the bill was chaptered on August 16, 2004.

Existing application and annual fees were increased. Change in licensing location fees were increased to 50% of the application fee.

The following new fees were added:

- Corporate Status Change Fee – 50% of the application fee shall be charged when a corporate licensee changes who has the authority to select a majority of the board of directors.
- Capacity Change Fee - \$25 shall be charged when a licensee seeks to either increase or decrease the facility's licensed capacity.
- Orientation Fee - \$25 must be charged to each person attending a department-sponsored family child day care orientation and \$50 per person for all other licensing categories (except Foster Family Homes which continue to have no fee.)
- Probation Monitoring Fee – An amount equal to the annual fee shall be charged for each year a license has been placed on probation as a result of a stipulation and decision and order.
- Late Fee – 50% of the annual fee shall be charge to any licensee who fails to pay the annual licensing fee on or before the due date as indicated by postmark on the payment.
- Payment Processing (Administrative) Fees - A fee charged to cover any cost incurred by the Department shall be charged for processing payments including, but not limited to, bounced check charges, charges for credit and debit transactions, and postage due charges.
- Plan of Correction Fees - A fee of two hundred dollars (\$200) shall be charged when any licensee does not implement a plan of correction on or before the date specified in the plan.

Implementation:

Existing Fee Increase

Although the bill is self-implementing, regulations will be amended to incorporate the new fees. In the interim, licensing staff should follow the applicable section of the Health and Safety Code to assess the **new** amounts for **existing fees** (annual, application, change in licensing location, change in corporate status and change of capacity) charged by the Department. See attached charts that list the new annual and application fees.

Licensing staff should cite the applicable Health and Safety Code if a licensee is assessed an existing fee and fails to submit payment as required.

New Orientation Fee

Licensing staff should refer to the October 1, 2004, memo from Interim Deputy Director, Martha Mills for orientation fee procedures.

Additional New Fees

The Department is determining how it will assess and collect payment processing (administrative) fees, late fees, plan of correction fees, and probation monitoring fees.

**Child Day Care Facilities
Application and Annual Fee Schedule
Effective August, 2004**

APPLICATION FEES

Family Child Care Homes

	<u>Fee</u>
Small (capacity to 8 children)	\$60
Large (capacity of 9 to 14 children)	\$115

Child Care Centers

<u>Capacity</u>	<u>Fee</u>
1 – 30	\$400
31 – 60	\$800
61 – 75	\$1,000
76 – 90	\$1,200
91 – 120	\$1,600
121+	\$2,000

ANNUAL FEES

Family Child Care Homes

	<u>Fee</u>
Small (capacity to 8 children)	\$60
Large (capacity of 9 to 14 children)	\$115

Child Care Centers

<u>Capacity</u>	<u>Fee</u>
1 – 30	\$200
31 – 60	\$400
61 – 75	\$500
76 – 90	\$600
91 – 120	\$800
121+	\$1,000

Residential Facilities – Application Fee Schedule Effective August 16, 2004

All Elderly and Community Care Residential Facilities (ARF, RCFE, GH, SFH, SRF, CTF, THPP) except Foster Family Homes which have no fee.

<u>Capacity</u>	<u>Fee</u>
1 – 3	\$375
4 – 6	\$750
7 – 15	\$1,126
16 – 30	\$1,500
31 – 49	\$1,876
50 – 74	\$2,252
75 – 100	\$2,628
101 – 150	\$3,004
151 – 200	\$3,502
201 – 250	\$4,000
251 – 300	\$4,500
301 – 350	\$5,000
351 – 400	\$5,500
401 – 500	\$6,500
501 – 600	\$7,500
601 – 700	\$8,500
701+	\$10,000

Adult Day Programs

1 – 15	\$150
16 – 30	\$250
31 – 60	\$500
61 – 75	\$626
76 – 90	\$750
91 – 120	\$1,000
121+	\$1,250

Foster Family and Adoption Agencies: \$2,500

Residential Care Facility for the Chronically III (RCFCI)

1 – 6	\$500
7-15	\$626
16-25	\$750
26-50	\$876
51+	\$876

Residential Facilities – Annual Fee Schedule Effective August 16, 2004

All Residential Facilities except Foster Family Homes which have no fee (ARF, RCFE, GH, SFH, SRF, CTF, THPP)

Capacity	Fee
1 – 6	\$375
7 – 15	\$563
16 – 30	\$750
31 – 49	\$938
50 – 74	\$1,126
75 – 100	\$1,314
101 – 150	\$1,502
151 – 200	\$1,751
201 – 250	\$2,000
251 – 300	\$2,250
301 – 350	\$2,500
351 – 400	\$2,750
401 – 500	\$3,250
501 – 600	\$3,750
601 – 700	\$4,250
701+	\$5,000

Adult Day Programs

1 – 15	\$75
16 – 30	\$125
31 – 60	\$250
61 – 75	\$313
76 – 90	\$375
91 – 120	\$500
121+	\$625

Foster Family and Adoption Agencies: \$1,250 (plus \$80 for each home certified by the FFA)

Residential Care Facility for the Chronically III (RCFCI)

1-6	\$250 plus \$10 per bed
7-15	\$313 plus \$10 per bed
16-25	\$375 plus \$10 per bed
26-50	\$438 plus \$10 per bed
51+	\$438 plus \$10 per bed

ACTION REQUIRED

SB 1662 (Dunn), CHAPTER 401, STATUTES OF 2004

Affects: Residential Care Facilities for the Elderly (RCFEs).
(This does not apply to facilities that have obtained a certificate of authority to offer continuing care contracts.)

Subject: Rate Increases

Summary: This legislation adds Health and Safety (H&S) Code Section 1569.657, requiring RCFE licensees to provide written notice to the resident and the resident's representative, if any, within two business days of providing service at a new level of care that results in a rate increase. The notice must include a detailed explanation of the additional services provided at the new level of care, and must itemize the charges.

This legislation does not apply to residents receiving Supplemental Security Income/State Supplemental Payment (SSI/SSP).

Implementation:

This legislation is enforceable without new regulations. The H&S Code should be used as the citing authority.

INFORMATION ONLY - NO ACTION REQUIRED

AB 2611 (Simitian), CHAPTER 886, STATUTES OF 2004

Affects: Residential Care Facilities for the Elderly, Residential Care Facilities for the Chronically-III, Adult Residential Facilities, Adult Day Programs, and Social Rehabilitation Facilities

Subject: Elder and Dependent Adult Abuse

Summary: This legislation amends Section 368 of the Penal Code and Sections 15656 and 15657 of the Welfare and Institutions Code, and adds Section 15657.5 to the Welfare and Institutions Code.

Effective January 1, 2005, this legislation changes the knowledge requirement for criminal penalties relating to elder and dependent abuse to “any person who knows or reasonably should know that a person is an elder or dependent adult.” If a person is convicted of violating the provisions in Section 368 of the Penal Code, the court may require the individual to receive appropriate counseling as a condition of probation.

This legislation also changes the standard of proof for civil court actions involving financial abuse, adding consequences if proven by a “preponderance of the evidence,” instead of only “clear and convincing evidence” and specifies those consequences.